

REMARKS

Applicant thanks the Examiner for the thorough comments provided in the Office Action mailed October 29, 2004. Applicant submits the following remarks in response to the Office Action and in light of the amendments made in this paper.

In the Drawings:

The Examiner objected to the drawings for four reasons. First, the Examiner stated that Figure 1 should be designated by a legend such as –Prior Art–. Applicant has added this legend, and respectfully request that this objection be withdrawn.

Second, the Examiner objected to the drawings as failing to include reference signs mentioned in the description. These signs are 47, 133, 145 and 168. Applicant is submitting corrected drawings concurrently with this amendment.

Specifically, in Figure 4, reference 47 has replaced 43, and 43 and lead line have been added in a new location. Reference 35 has replaced 49, and a new 49 and a lead line have been added. In Figure 12, reference 133 and a lead line have been added. In Figure 14, reference 145 and 168 and corresponding lead lines have been added. In view of the amendments, Applicant respectfully requests that the Examiner withdrawn this objection.

Third, the Examiner objected to the drawings for including the referenced character 22, which is not mentioned in the description. Applicant is submitting corrected drawings removing the character from Figure 16. In view of the corrected drawings, Applicant respectfully requests that the Examiner withdraw this objection.

Finally, the Examiner objected to the drawings because Figure 9 contained an unidentified lead line, reference character 93 and its lead line should be deleted in Figure 16, reference sign 176 and the corresponding lead line in Figure 17 should be deleted, reference sign 188 and its arrow line should be deleted in Figure 18, the lead line for reference character 194 in Figure 18 should be redirected, and Figures 2 and 18 should be reconciled. Applicant currently is submitting corrected drawings, and respectfully request that the Examiner withdraw the objection.

Please amend this application as follows:

In the Drawings:

Please amend Figures 1, 4, 9, 12, 14, 16, 17, and 18 as indicated in the Replacement Sheets and the Annotated Marked-Up Drawings. Each amendment is presented in detail in the Remarks section.

In the corrected drawings, Applicant has added the character 113 to the unidentified lead line in Figure 9. Applicant has deleted reference character 93 and its lead line in Figure 16. In Figure 17, Applicant has deleted reference character 176 and its lead line. In Figure 18, Applicant has deleted 188 and its lead line, deleted 89 and its lead line, and modified the lead line for reference character 194. Applicant believes that these amendments have reconciled Figures 2 and 18. Applicant respectfully requests that the Examiner withdrawn the objection.

In the Specification:

The Examiner objected to the following reference signs: 10 on page 6, 109 on page 7, 141, 157, and 159 on page 8, 40, 172 and 178 on page 9, and 17 on page 11. Furthermore the Examiner objected to the spelling of the word “toilet” and a grammatical mistake on page 10. Applicant has made the appropriate amendments, and respectfully request the withdrawal of these objections.

The Examiner also noted that the term “clamp” is misspelled in Claim 7. This claim has been amended, and the Applicant respectfully requests withdrawal of this objection by the Examiner.

Finally, the Examiner objected to the terms “a stationary appendage with tank in Claim 17 and “cable” in Claim 23 as lacking proper antecedent basis. Applicant has cancelled Claims 17 and 23. In view of these actions, Applicant respectfully requests that the Examiner withdraw these objections.

In the Claims:

The Examiner has rejected the claims under 35 USC §§ 112, 102, and 103. Applicant will discuss each basis of rejection individually.

REJECTION OF CLAIMS 4, 9-11, 16, AND 17-23 UNDER 35 U.S.C. § 112

The Examiner rejected Claims 4 and 16 under 35 U.S.C. 112, first paragraph as failing to comply with the written description requirement. More specifically, the Examiner rejected Claims 4 and 16 because the disclosure allegedly “fails to support or describe what structural features or structural configuration of the claim enables the clamp to be able to be changed from

a removably mounted configuration on the housing to a permanently mounted configuration by rotating the claim about 180 degrees.”

Applicant has amended Claims 4 and 16 to correspond to the language of the specification. The amendment does not introduce any new matter. The amendment is supported by paragraphs 44 and 45 on page 9 of the application as originally filed. Applicant submits that Claims 4 and 16 are allowable. Applicant respectfully requests that the Examiner withdraw the rejections of Claims 4 and 16 under 35 U.S.C. § 112.

The Examiner rejected Claims 17-23 as failing to comply with the written description requirement of 35 U.S.C. § 112 on several bases. Applicant has cancelled Claims 17-23. Applicant respectfully requests that the Examiner withdraw these rejections.

Finally, the Examiner rejected Claims 9-11 as being indefinite for failing to particularly point out and distinctly claim the subject matter. More specifically, the Examiner rejected Claims 9 and 11 as failing to provide a sufficient antecedent basis for the limitation “the lever.”

Applicant has amended Claims 9 and 11 to include proper antecedent basis. Applicant submits that Claims 9 and 11 are allowable. Furthermore, because Claim 10 is dependent on Claim 9, Applicant submits that Claim 10 is also allowable. Applicant respectfully requests that the Examiner withdraw the rejection of Claims 9-11.

REJECTION OF CLAIM 13 UNDER 35 U.S.C. § 102

The Examiner rejected Claim 13 under 35 U.S.C. 102 as being anticipated by Schroder. The Examiner stated that Schroder discloses a flush actuator for use with a toilet having all the claimed features of Claim 13.

Applicant has amended Claim 13. No new matter has been added. Applicant submits that Claim 13 is patentable over Schroder because Schroder fails to disclose “a horizontally rotatable lever mounted on said cover upper surface.” Applicant requests that the Examiner withdraw the rejection of Claim 13 under 35 U.S.C. § 102.

REJECTION OF CLAIMS 1, 3, 5, 6, AND 12 UNDER 35 U.S.C. § 103

The Examiner rejected Claims 1, 3, 5, 6, and 12 under 35 U.S.C. § 103 as being unpatentable over Veal in view of Kleiser, Jr. The Examiner indicates that Veal discloses a sensor that detects the presence of an occurrence, a receiver coupled to the sensor, the receiver

being disposed in a housing having a base and a cover, the housing having a pivotable or rotatable lever mounted thereon, a gear mechanism connected to the receiver, the gear mechanism having a cam that engages an actuator rod which is in contact with the lever and a clamp mounting the housing. The Examiner acknowledges that Veal fails to disclose that the lever is mounted to the cover or top of the housing. The Examiner then indicates that Kleiser, Jr. discloses a flushing actuator system for a toilet having a housing in which the lever is mounted to the top end portion of the housing.

Applicant has amended Claim 1. Applicant submits that Claim 1 is allowable because neither Veal nor Kleiser, Jr. discloses “a cover having a horizontally rotatable lever mounted thereon.” Applicant respectfully requests that the Examiner withdraw the rejection of Claim 1. Furthermore, because Claims 3, 5, 6 and 12 are all dependent on Claim 1, those claims contain every element of Claim 1. Applicant therefore respectfully requests that the Examiner withdraw the rejections of Claims 3, 5, 6, and 12 also.

ALLOWABLE SUBJECT MATTER

Applicant gratefully acknowledges that the Examiner indicated that Claims 2, 7, 8 and 14 would be allowable is rewritten in independent form, as well as Claim 15 being allowable if Claim 14 is rewritten. Applicant has amended the claims upon which Claims 2, 7, 8, and 14 are dependent. Applicant submits that these amendments place all currently-pending claims in allowable form.

SUMMARY

Applicant submits that pending Claims 1-16 as amended are patentable. Applicant respectfully requests the Examiner grant allowance of this application. The Examiner is invited to contact the undersigned attorneys for the Applicant via telephone if such communication would expedite this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Adam D. Airhart', written over a horizontal line.

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